

109TH CONGRESS
2D SESSION

H. R. 5021

To amend the Energy Employees Occupational Illness Compensation Program Act of 2000 to provide for certain nuclear weapons program workers to be included in the Special Exposure Cohort under the compensation program established by that Act.

IN THE HOUSE OF REPRESENTATIVES

MARCH 28, 2006

Ms. BERKLEY introduced the following bill; which was referred to the Committee on the Judiciary, and in addition to the Committee on Education and the Workforce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To amend the Energy Employees Occupational Illness Compensation Program Act of 2000 to provide for certain nuclear weapons program workers to be included in the Special Exposure Cohort under the compensation program established by that Act.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Nevada Test Site Vet-
5 erans’ Compensation Act of 2006”.

1 **SEC. 2. FINDINGS.**

2 (a) Congress makes the following findings:

3 (1) Employees working on Cold War-era nu-
4 clear weapons programs were employed in facilities
5 owned by the Federal Government and the private
6 sector producing and testing nuclear weapons and
7 engaging in related atomic energy defense activities
8 for the national defense beginning in the 1940s.

9 (2) These Cold War atomic energy veterans
10 helped to build and test the nuclear arsenal that
11 served as a deterrent during the Cold War, sacri-
12 ficing their personal health and well-being in service
13 of their country.

14 (3) During the Cold War, many of these work-
15 ers were exposed to radiation and placed in harm's
16 way by the Department of Energy and contractors,
17 subcontractors, and vendors of the Department with-
18 out their knowledge and consent, without adequate
19 radiation monitoring, and without necessary protec-
20 tions from internal or external occupational radi-
21 ation exposure.

22 (4) The Energy Employees Occupational Illness
23 Compensation Program Act of 2000 (42 U.S.C.
24 7384 et seq.) (in this section referred to as
25 "EEOICPA") was enacted to ensure fairness and
26 equity for the men and women who, during the past

1 60 years, performed duties uniquely related to the
2 nuclear weapons production and testing programs of
3 the Department of Energy, its predecessor agencies,
4 and contractors by establishing a program that
5 would provide timely, uniform, and adequate com-
6 pensation for beryllium and radiation-related health
7 conditions.

8 (5) Research by the Department of Energy, the
9 National Institute for Occupational Safety and
10 Health (NIOSH), NIOSH contractors, the Presi-
11 dent's Advisory Board on Radiation and Worker
12 Health, and congressional committees indicates that
13 at certain nuclear weapons facilities—

14 (A) workers were not adequately monitored
15 for internal or external exposure to ionizing ra-
16 diation; and

17 (B) records were not maintained, are not
18 reliable, are incomplete, or fail to indicate the
19 radioactive isotopes to which workers were ex-
20 posed.

21 (6) Due to the inequities posed by the factors
22 described above and the resulting harm to the work-
23 ers, Congress designated classes of atomic weapons
24 employees at the Paducah, Kentucky, Portsmouth,
25 Ohio, Oak Ridge K-25, Tennessee, and the Am-

1 chitka Island, Alaska, sites as members of the Spe-
2 cial Exposure Cohort under EEOICPA.

3 (7) The contribution of the State of Nevada to
4 the security of the United States throughout the
5 Cold War and since has been unparalleled.

6 (8) In 1950, President Harry S. Truman des-
7 ignated what would later be called the Nevada Test
8 Site as the country's nuclear proving grounds and,
9 a month later, the first atmospheric test at the Ne-
10 vada Test Site was detonated.

11 (9) The United States conducted 100 above-
12 ground and 828 underground nuclear tests at the
13 Nevada Test Site from 1951 to 1992.

14 (10) Out of the 1,054 nuclear tests conducted
15 in the United States, 928, or 88 percent, were con-
16 ducted at the Nevada Test Site.

17 (11) The Nevada Test Site has served, and con-
18 tinues to serve, as the premier research, testing, and
19 development site for our nuclear defense capabilities.

20 (12) The Nevada Test Site and its workers are
21 an essential and irreplaceable part of our nation's
22 defense capabilities.

23 (13) It has become evident that it is not fea-
24 sible to estimate with sufficient accuracy in a timely
25 manner the radiation dose received by employees at

1 the Department of Energy facility at the Nevada
2 Test Site for many reasons, including the following:

3 (A) The NIOSH Technical Basis Docu-
4 ment, the threshold document for radiation dose
5 reconstruction under EEOICPA, has incomplete
6 radionuclide lists.

7 (B) NIOSH has not demonstrated that it
8 can estimate dose from exposure to large, non-
9 respirable hot particles.

10 (C) There are significant gaps in environ-
11 mental measurement and exposure data.

12 (D) Resuspension doses are seriously un-
13 derestimated.

14 (E) NIOSH has not been able to estimate
15 accurately exposures to bomb assembly workers
16 and radon levels.

17 (F) NIOSH has not demonstrated that it
18 can accurately sample tritiated water vapor.

19 (G) External dose records lack integrity.

20 (H) There are no beta dose data until
21 1966.

22 (I) There are no neutron dose data until
23 1966 and only partial data after such date.

1 (J) There are no internal dose data until
2 late 1955 or 1956, and limited data until well
3 into the 1960s.

4 (K) NIOSH has ignored exposure from
5 more than a dozen underground tests that vent-
6 ed, including Bianca, Des Moines, Baneberry,
7 Camphor, Diagonal Line, Riola, Agrini, Midas
8 Myth, Misty Rain, and Mighty Oak.

9 (L) Instead of monitoring individuals,
10 groups were monitored, resulting in unreliable
11 personnel monitoring.

12 (14) Amchitka Island, where only 3 under-
13 ground nuclear tests were conducted, has been des-
14 ignated a Special Exposure Cohort under
15 EEOICPA.

16 (15) Some Nevada Test Site workers, despite
17 having worked with significant amounts of radio-
18 active materials and having known exposures leading
19 to serious health effects, have been denied com-
20 pensation under EEOICPA as a result of flawed cal-
21 culations based on records that are incomplete, in
22 error, or based on faulty assumptions and incorrect
23 models.

1 **SEC. 3. INCLUSION OF CERTAIN NUCLEAR WEAPONS PRO-**
2 **GRAM WORKERS IN SPECIAL EXPOSURE CO-**
3 **HORT UNDER ENERGY EMPLOYEES OCCUPA-**
4 **TIONAL ILLNESS COMPENSATION PROGRAM.**

5 (a) IN GENERAL.—Section 3621(14) of the Energy
6 Employees Occupational Illness Compensation Program
7 Act of 2000 (42 U.S.C. 7384l(14)) is amended—

8 (1) by redesignating subparagraph (C) as sub-
9 paragraph (D); and

10 (2) by inserting after subparagraph (B) the fol-
11 lowing new subparagraph:

12 “(C) The employee was so employed at the
13 Nevada Test Site or other similar sites located
14 in Nevada during the period beginning on Jan-
15 uary 1, 1950, and ending on December 31,
16 1993, and, during such employment—

17 “(i) was present during an atmos-
18 pheric or underground nuclear test or per-
19 formed drillbacks, re-entry, or clean-up
20 work following such a test (without regard
21 to the duration of employment);

22 “(ii) was present during an episodic
23 event involving radiation releases (without
24 regard to the duration of employment); or

25 “(iii) was employed at the Nevada
26 Test Site for a number of work days ag-

gregating at least 250 work days and was
employed in a job activity that—

“(I) was monitored through the
use of dosimetry badges or bioassays
for exposure to ionizing radiation; or

“(II) worked in a job activity
that is or was, comparable to a job
that is, was, or should have been mon-
itored for exposure to ionizing radi-
ation through the use of dosimetry
badges or bioassay.”.

(b) DEADLINE FOR CLAIMS ADJUDICATION.—Claims
for compensation under section 3621(14)(C) of the En-
ergy Employees Occupational Illness Compensation Pro-
gram Act of 2000, as added by subsection (a), shall be
adjudicated and a final decision issued—

(1) in the case of claims pending as of the date
of the enactment of this Act, not later than 30 days
after such date; and

(2) in the case of claims filed after the date of
the enactment of this Act, not later than 30 days
after the date of such filing.

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